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potential Rule 23 Class*

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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LIYOU XING,
*on his own behalf and on behalf of others similarly
situated,*

Plaintiffs,
v.

Case No. 18-cv-06616

MAYFLOWER INTERNATIONAL HOTEL GROUP
INC

d/b/a Mayflower Hotel and
d/b/a Wyndham Garden;

MAYFLOWER BUSINESS GROUP, LLC

d/b/a Mayflower Hotel and
d/b/a Wyndham Garden;

MAYFLOWER INN CORPORATION

d/b/a Mayflower Hotel and
d/b/a Wyndham Garden;

MAYFLOWER WENYU LLC

d/b/a Mayflower Hotel and
d/b/a Wyndham Garden;

YAN ZHI HOTEL MANAGEMENT INC.

d/b/a Mayflower Hotel and
d/b/a Wyndham Garden;

MAYFLOWER 1-1 LLC

d/b/a Mayflower Hotel and
d/b/a Wyndham Garden;

YUEHUA HU,

WEI HONG HU a/k/a Weihong Hu, and

XIAOZHUANG GE

Defendants.

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29 U.S.C. § 216(b)
COLLECTIVE ACTION &
FED. R. CIV. P. 23 CLASS
ACTION

**AFFIDAVIT OF LIYOU XING
IN SUPPORT OF
PLAINTIFF'S MOTION FOR
CONDITIONAL
COLLECTIVE
CERTIFICATION**

I, LIYOU XING, being duly sworn and under penalty of perjury, deposes and states as follows:

1. I am a resident of Queens, New York, and I am over 18 years of age.

2. I have personal knowledge of the matters stated below.
3. From on or about September 05, 2016 to March 02, 2017, I worked as a construction Worker employed by Defendants to work at the Mayflower Hotel at 61-27 186th Street, Fresh Meadows, NY 11365.
4. From on or about March 03, 2017 to August 15, 2018, I worked as a Chef employed by Defendants to work at the affiliated restaurant (Wyndham Garden) inside the Mayflower Hotel at 61-27 186th Street, Fresh Meadows, NY 11365.
5. From on or about March 03, 2017 to March 06, 2017 for four days, I was assigned by Manager “Ah Mei Chen” to “learn how to make breakfast” at 38-59 12th Street, Long Island City, NY 11101.
6. From on or about September 05, 2016 to March 02, 2017, my regular work schedule ran from 09:00 to 18:00 with one (1) hour meal break for eight (8) hours a day for five (5) days a week with Saturdays and Sundays off, for a total of forty (40) hours per week.
7. From on or about March 03, 2017 to April 02, 2017, my regular work schedule ran for an average of nine and a half (9.5) hours a day across early shifts from 06:00 to 15:00 (early shifts) for nine (9) hours a day and from 10:00-20:00 (middle shifts) for ten (10) hours a day for seven (7) days a week for a total of sixty-six and a half (66.5) hours each week.
8. From on or about June 01, 2017 to June 30, 2017, my regular work schedule ran from 10:00 to 21:00 for eleven (11) hours a day for six (6) days a week with Sundays off for a total of sixty-six (66) hours each week.
9. From on or about July 01, 2017 to August 31, 2017, my regular work schedule ran

from 10:00 to 21:00 for eleven (11) hours a day for seven (7) days a week for a total of seventy-seven (77) hours each week.

10. From on or about September 01, 2017 to August 15, 2018, my regular work schedule ran from from 11:00 to 23:00 for twelve (12) for six (6) days a week for a total of seventy-two (72) hours each week.

11. At all relevant times, I did not have a fixed time for lunch or for dinner.

12. Although I was provided with one-hour lunch break, in reality I only had about thirty (30) minutes to eat and even during that time, I was required to be on call, meaning that if customer's order came, my break stopped and I had to cook.

13. From on or about September 05, 2016 to March 30, 2017, I was paid a flat compensation at a rate of twelve dollars (\$12.00) per hour.

14. From on or about March 31, 2017 to May 25, 2017 , I was paid a flat compensation at a rate of twenty-two dollars (\$22.00) per hour.

15. From on or about May 26, 2017 to June 22, 2017, I was paid a flat compensation at a rate of sixteen dollars (\$16.00) per hour.

16. From on or about June 23, 2017 to June 30, 2017, I was paid a flat compensation at a rate of thirty-five dollars (\$35.20) per hour.

17. However, I was not paid for all hours worked at all relevant times.

18. Specifically, from March 03, 2017 to March 16, 2017, I was only paid for fifty two (52) hours per week, when I actually worked in excess of fifty two (52) hours per week.

19. From March 17, 2017 to March 30, 2017, I was paid only forty nine (49) hours per week, when I actually worked in excess of forty-nine (49) hours per week.

20. From March 31, 2017 to June 30, 2017, I was paid only forty (40) hours per week, when I actually worked in excess of forty (40) hours per week.
21. From on or about July 01, 2017 to July 31, 2017, I was paid a flat compensation at a rate of three thousand six hundred ninety-six dollars (\$3,696.00) per month.
22. From on or about August 01, 2017 to August 31, 2017, I was paid a flat compensation at a rate of four thousand forty-eight dollars (\$4,048.00) per month.
23. From on or about September 01, 2017 to September 30, 2017, I was paid a flat compensation at a rate of three thousand six hundred ninety-six dollars (\$3,696.00) per month.
24. From on or about October 01, 2017 to July 31, 2018, I was paid a flat compensation at a rate of three thousand eight hundred seventy-two dollars (\$3,872.00) per month.
25. From on or about August 01, 2018 to August 15, 2018, I was paid a flat compensation at a rate of three thousand two hundred seventy-six dollars (\$3,276.00) per month.
26. At all relevant times, I was not paid overtime pay for overtime work.
27. Throughout my employment, I was not given a statement with my weekly payment reflecting employee's name, employer's name, employer's address and telephone number, employee's rate or rates of pay, any deductions made from employee's wages, any allowances claimed as part of the minimum wage, and the employee's gross and net wages for each pay day in Chinese, my native language.
28. At the time of my hiring, Defendants never provided me with any hiring notice which informed me of my hourly rate, regular pay day, any allowance taken, or such other information required by New York Labor Law.
29. Throughout my employment, I was not compensated at least at one-and-one-half my

promised hourly wage for all hours worked above forty (40) in each workweek.

30. Throughout my employment, I was not compensated for an additional hour for New

York's "spread of hours" premium for shifts that lasted longer than ten (10) hours on a workday.

31. I know Defendants have a common policy to not pay any employee at time and a half rate for all of their overtime hours. I know this because I have talked with other employees, who has the same or similar working schedules as me, and was told that they were also not paid for the total amount of time they have worked, nor compensated for all of their overtime hours worked.

32. During my employment, I befriended some of the co-workers who worked for Defendants and suffered same practice and policy.

33. I know a co-worker who worked in the hotel lobby, and shuttle driver at the Wyndham Garden Hotel located at the 61-27 186th Street, Fresh Meadows, NY 11365 named Michael.

34. Michael is about twenty years old, a bit over weight and with dark brown hair. He was originally from Russia.

35. He started working for the Defendants from on or about March 5, 2017, and was terminated by HU, WEIHONG on or about September 20, 2018.

36. During Michael's employment, his working schedule ran from 8:00 to 20:00 with one-hour break from 12:00-13:00 for 5 days a week. Throughout his employment with the Defendants, he worked around fifty-five (55) hours a week.

37. I know Michael's schedule because we often talked about it when we bumped into each other on my way to throw out trash.

38. Michael was initially paid at \$12 dollars per hour, then increased to \$16 dollars per hour toward the end of his employment.

39. I am aware about his hourly rate because in June or July of 2018, Michael stopped by the kitchen to chat with me, and during that conversation, he told me about his wage information, and told me he did not receive overtime compensation.

40. I know another employee who worked as a shuttle driver at the Wyndham Garden Hotel located at 61-27 186th Street, Fresh Meadows, NY 11365.
41. We referred to him as “Zhai Qian” who is also known as “David”.
42. Zhai Qian is originally from Shenyang Province, China. He is about 1.73 meters height.
43. Zhai Qian worked for the Defendants for about twelve days only in the month of August 2018.
44. During his employment, Zhai Qian told me he worked around 11 hours per day for a total of 132 hours.
45. Zhan Qian was paid two thousand dollars (\$2,000) in check when he left.
46. I know about Zhan Qian’s payment because when he received the check, I was right beside him, and he showed me he got paid two thousand dollars (\$2,000) in check for all the days he worked.
47. I know another colleague whose position was manager assistant and shuttle driver named Haiyang Wang. He worked at the Wyndham Garden Hotel located at 61-27 186th Street, Fresh Meadows, NY 11365 and Howard Johnson Hotel located at 38-61 12th Street, Long Island City, NY 11101.
48. Haiyang Wang was originally from Tianjin, China. He is around 1.70 meters in height and quite slim.
49. Haiyang Wang first worked at Howard Johnson Hotel from on and about September, 2014 to September 9, 2016, then he had been dispatched to Wyndham Garden Hotel on September 10, 2016, and stayed in that branch until April 2017, and in May 2017, Haiyang was transferred back to the Howard Johnson Hotel and worked there for the rest of the period up until May 2018.
50. Haiyang Wang’s working schedule ran from 9:00 to 18:00 for 9 hours a day, five days a week. Throughout his employment with the Defendants he worked around 45 hours a week.
51. I know Haiyang Wang’s rate was \$16 per hour.
52. I know this because the manager of Defendant, A Mei, told me in the kitchen in March or April of 2017 when we were chatting casually.

53. I know another employee who worked as a manager assistant and shuttle driver. Her last name is Zhu. She worked at the Wyndham Garden Hotel located at 61-27 186th Street, Fresh Meadows, NY 11365 and Howard Johnson Hotel at 38-61 12th Street, Long Island City, NY 11101.
54. Ms. Zhu is around twenty years old. She told me she is from Shanxi Province, China. She is around 1.65 meters tall.
55. Zhu started working for the Defendants from on or about December, 2016 at the Howard Johnson Hotel.
56. She was later dispatched to work for Wyndham Garden Hotel from on or about January 2018, she might be still working there.
57. Zhu's working schedule ran from 9:00 to 18:00 every day, five days a week. Throughout her employment with the Defendants she worked approximately 45 hours a week.
58. I know about her working schedule because we worked together every day during my employment with the Defendants.
59. I know another employee who worked as a housekeeper at the Wyndham Garden Hotel located at 61-27 186th Street, Fresh Meadows, NY 11365 and Howard Johnson Hotel located at 38-61 12th Street, Long Island City, NY 11101. Her last name is Zhou, we also referred her as "Xiao Zhou".
60. Xiao Zhou is around thirty years old. She is around 1.60 meters tall; she wears glasses and is from Shanxi Province, China.
61. Xiao Zhou started working at the Fresh Meadows branch for her first three months working for Mayflower, then was transferred to Long Island branch from on or about November, 2017.
62. Xiao Zhou's working schedule ran from 08:00 to 17:00 every day, five days a week. Throughout her employment with the Defendants' she worked around 45 hours a week.
63. Xiao Zhou was paid at a rate of twelve dollars (\$12.00) per hour, plus one dollar as tips per hour.
64. I know about her working schedule and wage because she would stop by the kitchen to drink water, and we had chats from time to time, and got know each other's wages including working hours and how much tips she got or if she did not earn any tips that day.

65. I know another person who worked as housekeeper at the Wyndham Garden Hotel located at 61-27 186th Street, Fresh Meadows, NY 11365. We referred her as "Xixi".
66. Xixi is originally from Shanghai, China, around 1.7 meters in height.
67. Xixi started working for the Defendants from on and about July, 2016 at the Wyndham Garden Hotel and left on or about September, 2017.
68. Xixi's working schedule ran from 9:00 to 18:00 for about nine hours per day, for five days per week. Based on my best knowledge, she worked around 45 hours a week during her employment. I know Xixi's rate was initially \$10 per hour, then gradually increased to thirteen dollars (\$13) per hour.
69. I am aware about her pay rate because in May of 2017, we had a conversation in the corridor regarding our pay rates and how Defendants did not pay for all the hours worked.
70. I know another person who worked as cleaner at the Wyndham Garden Hotel located at 61-27 186th Street, Fresh Meadows, NY 11365. His last name is Xue.
71. Xue told me that he is from Shanghai, China. He is around 1.85 meters tall, a bit over weight.
72. Xue started working for the Defendants from on or about July, 2016 at the Wyndham Garden Hotel and left on or about May, 2017.
73. Xue's working schedule ran from 9:00 to 18:00 for about nine hours per day, five days a week. As far I remember, he worked around 45 hours a week during his employment period with the Defendants.
74. I know Xue's rate was twelve dollars (\$12) per hour.
75. I am aware about his hourly pay rate because during April 2017, we had a chat in the lobby, and during the conversation, we talked about each other's pay rates.
76. I know another person who worked as a housekeeper at the Wyndham Garden Hotel located at 61-27 186th Street, Fresh Meadows, NY 11365. His last name is "Gao".
77. Gao is around 1.68 meters tall. He told me he came from Hebei Province, China.
78. Gao started working for Defendants' from on or about January 2018, then he was fired along with other employees in the month of August, 2018. He went back to work in September 2018 and after one month he was fired again in October 2018.

79. Gao's working schedule ran from 9:00 to 18:00 every day, five days per week. Throughout his employment with the Defendants he worked around 9 hours per day for a total of 45 hours a week.
80. I know another person who worked as housekeeper at the Wyndham Garden Hotel at 61-27 186th Street, Fresh Meadows, NY 11365. His Last name is Mr. "Liang".
81. Liang is around 1.68 meters tall. He is around sixty years old. He told me he came from Shanghai, China.
82. Liang worked nine hours per day, for six days per week. during his employment at the Defendants, he worked for about 56 hours every week.
83. I know another employee of Defendants who worked as a housekeeper at the Wyndham Garden Hotel located at 61-27 186th Street, Fresh Meadows, NY 11365. His last name is Wei, whom we also referred him as "Xiao Wei."
84. Xiao Wei is around 1.80 meters tall. He is around thirty years old. He told me he came from Shanghai, China.
85. I know all the above mentioned co-workers were also not paid overtime wages because all of us were paid the same way and were given similar working schedules and pay rate.
86. I sincerely believe there are other employees who are also paid less and are not paid for all the hours they worked for the Defendants.
87. I sincerely hope that this Court allows me to represent the interest of my co-workers in this action. These Defendants exploited me and my co-workers, and it is my hope that we will be permitted to recover wages that we are owed.
88. This has been translated into my native language of Chinese and I understand the contents.

Dated: 05-15-2019

Flushing, NY

Li You Xing
Xing, Liyou

Sworn to me this 15th day of May, 2019

John Troy
Notary Public

JOHN TROY
Notary Public, State of New York
No. 02TR6121824
Qualified in Queens County
Commission Expires 04/12, 2021